

**SPECIAL BULLETIN A
CHARLES CITY ROAD ILLEGAL DRUM DUMP SITE
NOTIFICATION OF 250K ACTIVATION**

2410 CHARLES CITY ROAD
HENRICO COUNTY, VA 23231
ATTN: RRC, F. BURNS, D. CARNEY

I. BACKGROUND

A. On or about September 28, 2009, trespassers illegally accessed a portion of the CSX Transportation Inc., (CSXT) property off of Charles City Road in the eastern section of Henrico County, VA. Contractors working on the Site observed an unknown truck trespassing onto the Site. The occupants of the truck were caught dumping approximately ten gallons of paint waste onto the ground on CSXT property. Law enforcement was notified, and the Henrico County Fire Marshal's Office responded and determined the event to be a potential environmental crime.

B. CSXT hired its contractors, Hepaco and Geosyntec consultants, to overpack the containers and excavate the contaminated soil.

C. On the following day, Henrico County officials returned to the scene to collect samples from the drums. Representatives from the County deemed the drums legal evidence for the criminal investigation. CSXT representatives voluntarily created a staging area on their property and staged the drums beyond a locked gate.

D. In October of 2009, the Virginia State Laboratory (DCLS) reported that the samples were flammable and contained the hazardous substances toluene and xylene(s).

E. Because the samples met the definition of RCRA Hazardous Waste, Henrico County made the decision to treat the incident as an environmental crime. The criminal case is ongoing.

II. CURRENT SITUATION

A. On April 27, 2010, a hazardous waste inspector from the Virginia Department of Environmental Quality (VDEQ) conducted a compliance evaluation inspection at the CSXT property where the drums are located. VDEQ advised CSXT to perform the proper prompt and legal removal of these drums.

B. On July 21, 2010, a representative of Geosyntec sent a letter to the Henrico County Fire Marshal's Office requesting that Henrico County pick up the drums and store them at a County facility.

C. On August 3, 2010, the Henrico County Fire Marshal's Office requested EPA's assistance with the proper removal and disposal of the drums. The Deputy Fire Marshal has checked with the County Attorney's office and confirmed that the actual drums are no longer

needed for evidence. Henrico County does not have the financial resources to store or dispose of the drums.

D. Initial sampling of the contents confirms that the spilled material is ignitable. Since the material was disposed of in an improper manner and has a flashpoint less than 60° Celsius, the spilled material is considered characteristic hazardous waste, as defined in 40 CFR 262.21.

E. The Charles City Road Illegal Dump Site is located on a remote CSXT property off of Charles City Road in the eastern end of Henrico County, VA. The property is a large wooded lot, which is accessible by a gravel road from Charles City Road. The location of 2401 Charles City road is a Richmond address; however, the Site is in the County of Henrico, not in the City of Richmond.

F. The Site is fenced and the area where the drums are stored is also fenced. The surrounding area is primarily commercial. The approximate geographical coordinates are 37.504337 N and -77.35888 W.

G Forty-four drums are located on the Site. Of these, four contain liquid spilled product and the remaining containers on the truck. The other forty drums contain contaminated soil from the area where the spill occurred.

H. Henrico County collected ten samples in September 2009. Seven samples were liquid, two were soil samples from the area where the spill occurred, and the tenth sample was a field blank. The liquid samples were tested for ignitability by the Commonwealth of Virginia Division of Consolidated Services (State Lab). The laboratory assigned the samples a flashpoint of 27°C, because the samples flashed at the first application of heat. The laboratory noted that the actual flashpoint may be lower. Under RCRA regulations (40 CFR 262.21), a substance is characteristic of ignitability if it has a flash point less than 60°. This finding indicates that the liquid samples are classified as characteristic hazardous waste.

I. The liquid samples also contained toluene and xylene. Quantitative analysis was not performed; however, the samples matched the library for toluene and xylene using gas chromatograph/mass spectroscopy (GC/MS) technology. The analysis was performed by a certified laboratory. Toluene and xylene are both listed hazardous substances under 40 CFR 302.4.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

Section 300.415 of the National Contingency Plan (NCP) lists the factors to be considered in determining the appropriateness of a response action. At this time, the following sections apply:

§ 300.415(b)(2)(i) *Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;*

The drums are currently contained within a fenced area. However, the drums are not being maintained and the contents have not been fully characterized. The containers have been tested for ignitability and volatile organic contaminants, but not other contaminants. If a person who has not been trained in safe handling practices involving hazardous materials came into contact with the drums, that person could accidentally become exposed to toxic and/or flammable materials.

§ 300.415(b)(2)(ii)(iii) Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

Forty-four drums are staged on Site. The materials have not been fully characterized, but the source material is verified as flammable. Flammable materials are volatile and will continue to evaporate within the drums. This will likely cause undue stress on the containers and may cause them to expand or fail. Such a release could result in a release and/or fire. The drums are stored outdoors and are not being maintained.

§ 300.415(b)(2)(v) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;

The drums are stored outdoors. The drums have not been open or inspected for almost a year. The contents may have expanded or leaked. The drums require immediate proper disposal. The potential responsible party dumped the contents and is not considered a responsible choice for proper disposal. The drums are in an open area in the middle of hurricane season. Adverse weather will only further deteriorate the drums.

§ 300.415(b)(2)(vii) The availability of other appropriate federal or state response mechanisms to respond to the release;

Henrico County has advised the OSC that the County does not have the resources available to perform a proper cleanup. The Virginia Department of Environmental Quality has also been contacted and requested EPA assistance with the proper disposal of the drums.

IV. ENFORCEMENT

A. Both Henrico County, the local authority for the Site, and the Virginia Department of Environmental Quality ("VDEQ") are involved in the Removal Action. The Henrico County Fire Marshal's Office is the lead agency for the investigation of the environmental crime(s) which may have occurred in this incident. The investigation is still ongoing.

B. The Virginia Department of Environmental Quality has also visited the Site and concurs that the release was caused by the illegal dumping of hazardous substances.

C. CSXT, the current owner of the property, has already incurred significant costs to mitigate the spill, overpack the containers, and excavate the contaminated soil. However, CSXT's position is that the company is a victim of an environmental crime.

D. The spill which occurred on September 28, 2009 was mitigated by CSXT contractors. These actions included overpacking the containers which were being discharged, cleaning up the material dumped onto the CSXT property, and excavating the contaminated soil. Additionally, CSXT has fencing installed around the drums and a locked gate to secure the drums.

E. The status of the criminal enforcement case is confidential. An Enforcement Confidential Memo has been provided to the Cost Recovery Section and to EPA CID.

V. ENDANGERMENT DETERMINATION

A. At the present time, no action is being taken to dispose of the drums. A letter from Geosyntec, the consultant for CSXT, to the Henrico County Fire Marshal's Office states that "CSXT did not generate this waste, does not own this waste, and does not want the responsibility of disposing of this waste". Geosyntec has requested that Henrico County remove and dispose of the drums; however a representative from the Henrico County Fire Marshal's Office informed the OSC that the County does not have the resources necessary to perform a proper removal action.

B. Actual and threatened releases of hazardous substances, pollutants, and contaminants from this Site, if not addressed, may present an imminent and substantial endangerment to public health, welfare, or the environment.

C. Based on this determination of imminent and substantial threat, and under Delegation of Authority 14-2, the OSC is activating funds in the amount of \$250,000 to mitigate the release or threat of release of hazardous substances.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

1. Proposed Action Description

- a. Sample the drums for proper disposal analysis;
- b. Remove, package, and dispose of the drums in accordance with local, state, and federal recommendations;
- c. Inspect the drums storage area for any evidence of leakage and remove and dispose of any additional contaminated soil.

2. Estimated Costs

ERRS: \$200,000

EPA: \$ 50,000

Total: \$250,000

VII. FUTURE ACTIONS

- A. EPA will mobilize to the Site to sample the drums for disposal.
- B. The OSC will forward the Enforcement Confidential Memo to Cost Recovery and EPA CID.
- C. The OSC will prepare an Administrative Record containing documentation supporting this response.
- D. The OSC will continue to coordinate with local and state officials.

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